

Subpart D—Rules for Investigative Proceedings and Formal Examination Proceedings

§ 390.80 Scope of subpart.

This subpart prescribes rules of practice and procedure applicable to the conduct of investigative proceedings under section 7(j)(15) of the Federal Deposit Insurance Act, as amended, 12 U.S.C. 1817(j)(15) (“FDIA”), section 8(n) of the FDIA, 12 U.S.C. 1818(n), or section 10(c) of the FDIA, 12 U.S.C. 1820(c). This subpart does not apply to adjudicatory proceedings as to which hearings are required by statute, the rules for which are contained in subpart C.

§ 390.81 Definitions.

As used in this subpart:

Board of Directors means the Board of Directors of the Federal Deposit Insurance Corporation or its designee;

Designated representative means the person or persons empowered by the Board of Directors to conduct an investigative proceeding or a formal examination proceeding;

FDIC means the Federal Deposit Insurance Corporation;

Formal examination proceeding means the administration of oaths and affirmations, taking and preserving of testimony, requiring the production of books, papers, correspondence, memoranda, and all other records, the issuance of subpoenas, and all related activities in connection with examination of State savings associations and their affiliates conducted pursuant to section 7(j)(15) of the FDIA, section 8(n) of the FDIA or section 10(c) of the FDIA;

General Counsel means the General Counsel of the Federal Deposit Insurance Corporation; and

Investigative proceeding means an investigation conducted under section 10(c) of the FDIA.

§ 390.82 Confidentiality of proceedings.

All formal examination proceedings shall be private and, unless otherwise ordered by the FDIC, all investigative proceedings shall also be private. Unless otherwise ordered or permitted by the FDIC, or required by law, and except as provided in §§ 390.83 and 390.84,

the entire record of any investigative proceeding or formal examination proceeding, including the order initiating the proceeding, the transcript of such proceeding, and all documents and information obtained by the designated representative(s) during the course of said proceedings shall be confidential.

§ 390.83 Transcripts.

Transcripts or other recordings, if any, of investigative proceedings or formal examination proceedings shall be prepared solely by an official reporter or by any other person or means authorized by the designated representative. A person who has submitted documentary evidence or given testimony in an investigative proceeding or formal examination proceeding may procure a copy of his own documentary evidence or transcript of his own testimony upon payment of the cost thereof; *provided*, that a person seeking a transcript of his own testimony must file a written request with the designated representative stating the reason he desires to procure such transcript, and said persons may for good cause deny such request. In any event, any witness (or his counsel) shall have the right to inspect the transcript of the witness’ own testimony.

§ 390.84 Rights of witnesses.

(a) Any person who is compelled or requested to furnish documentary evidence or give testimony at an investigative proceeding or formal examination proceeding shall have the right to examine, upon request, the order authorizing such proceeding. Copies of such resolution shall be furnished, for their retention, to such persons only with the written approval of the designated representative.

(b) Any witness at an investigative proceeding or formal examination proceeding may be accompanied and advised by an attorney personally representing that witness.

(1) Such attorney shall be a member in good standing of the bar of the highest court of any state, Commonwealth, possession, territory, or the District of Columbia, who has not been suspended or debarred from practice by the bar of any such political entity or before the FDIC in accordance with the provisions